

FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GREG W. AUSTRUM,
RESPONDENT.

FINAL DECISION
AND ORDER
89 REB 211

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Greg W. Austrum
421 St. Croix St.
Hudson, WI 54016

The Wisconsin Real Estate Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Greg W. Austrum is and was at all times relevant to the facts set forth herein a real estate broker licensed to practice in the State of Wisconsin pursuant to license #22022, granted on May 29, 1979.

2. Greg W. Austrum is and was at all times relevant to the facts set forth herein employed at Edina Realty, Inc. a Wisconsin real estate corporation licensed to practice in Wisconsin pursuant to license #28555, granted on March 22, 1983.

3. The 3M Company owned a home located at 374 Tower Road, Hudson, Wisconsin.

4. The 3M Company contracted with Relocation Resources, Inc., 120 Longwater Drive, Norwell, Massachusetts to list the property for sale with Edina Realty Corporate Relocation Services of Minneapolis, Minnesota.

5. Relocation Resources, Inc. entered into a listing agreement with Edina Realty Corporate Relocation Services on January 11, 1989 with the selling price for the property initially listed as \$114,900.

6. On January 11, 1989, Marj Ford of Edina Realty Corporate Relocation Services appointed Greg Austrum as the Wisconsin listing agent.

7. At some time subsequent to this listing, Marj Ford informed Greg Austrum that any counteroffers made on behalf of the 3M Company being made must contain the clause "subject to corporate client approval" or similar such language.

8. Mary Nasvik of Edina Realty prepared three offer to purchase documents (May 4, 1989, May 19, 1989, and June 13, 1989) on behalf of Greg and Danna Bauer.

9. The first two offers were counteroffered with the counteroffer being rejected by the Bauers.

10. At some time prior to the submission of the third offer, Greg Austrum discarded the first two offers and counteroffers involving the Bauers.

11. The Bauers June 13, 1989 offer to purchase was in the amount of \$95,000 and contained a contingency that the seller was to pay 2% discounts points (not to exceed \$1,800) to help buyers to procure financing.

12. On June 14, 1989, a counteroffer was prepared by Greg Austrum with price not being changed but asserting that seller would pay no points towards buyers financing.

13. The counteroffer did not contain the clause "subject to corporate client approval" or similar such language.

14. The Bauers accepted the counteroffer on June 15, 1989.

15. The 3M company rejected the counteroffer and set the selling price at \$100,000.

16. At some time prior to December 11, 1989, Greg Austrum discarded the June 13, 1989, Bauer offer to purchase and counteroffer documents.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 227.44(5), Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached stipulation pursuant to sec. 227.44(5).

3. Respondent Greg W. Austrum has violated sec. 452.14(3)(i), Wis. Stats. and RL 15.04 by failing to keep offers to purchase and counteroffers for at least three years.

4. Respondent Greg W. Austrum has violated sec. 452.14(3)(i) and RL 24.08 by failing to put an essential term and condition in the June 14, 1989, counteroffer he prepared.

Now therefore, it is hereby ORDERED:

1. That the attached stipulation is accepted.

2. that consistent with his agreement the broker's license of Respondent Greg W. Austrum (license #22022) is suspended for a period of sixty (60) days, the period of suspension shall commence on the date of this order.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

By:


A Member of the Board

1/23/92
Date

GMS:mkm

DOEATTY-1558

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

GREG W. AUSTRUM,
RESPONDENT.

:
:
:
:
:

STIPULATION
89 REB 211

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Greg W. Austrum, hereinafter the Respondent, by the Division of Enforcement (89 REB 211). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. The Respondent understands by signing this Stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify himself, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision, the right to petition for rehearing and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. The Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above on the condition that all of the provisions of this Stipulation are approved by the Board.
4. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts set forth in the Findings of Fact, but agrees that the Board may reach the conclusions set forth in the Conclusions of Law and may enter the Order suspending Respondent's broker's license for sixty (60) days.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision of the Board and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the Final Decision and Order without further notice, pleading, appearance or consent of the parties.

7. Respondent agrees that Complainant's attorney, Gerald M. Scanlan, may appear at any deliberative meeting of the Board with respect to the Stipulation but that appearance is limited to providing statements in support of the Stipulation, and to answering any questions the Board may have regarding the Stipulation. Respondent waives his rights to have notice of that hearing and to be present at the deliberative meeting of the Board.

8. The Division of Enforcement joins Respondent in recommending that the Board adopt the Stipulation and issue the attached Final Decision and Order.

12-20-91
Date

Greg W. Austrum
Greg W. Austrum

1/8/92
Date

Gerald M. Scanlan
Gerald M. Scanlan, Attorney
Division of Enforcement

GMS:mkm
ATY-1560

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is January 24, 1992.